

erw



Attorney Docket No. 1405.1050

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Takuro IKEDA, et al.

Application No.: 09/961,181

Group Art Unit: 3269

Confirmation No.: 7175

Filed: September 24, 2001

Examiner: Traci L. SMITH

For: INFORMATION GATHERING METHOD AND SYSTEM

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This is responsive to the Office Action mailed April 26, 2005, having a shortened period for response set to expire on May 26, 2005. The following remarks are provided.

I. Provisional Election of Claims Pursuant to 37 CFR §1.142

Applicants provisionally elect Species A (claims 1-11) in response to the preliminary restriction/species election requirement set forth in the Office Action.

II. Applicants Traverse the Requirement

Applicants respectfully traverse the species election requirement.

Regarding Species B (claims 12-13) and C (claim 14), applicants submit that this should have been only one species, namely Species B, because claims 12-14 correspond to the third embodiment of the present invention. Moreover, the relationship of claims 1-10 with respect to claim 11 is equivalent to the relationship of claims 12-13 with respect to claim 14. Since claims 1-11 were grouped into one species, claims 12-14 should have been grouped into one species B, rather than two species B and C.

Insofar as Species A, B, and C are concerned, it is believed that claims 12-14 are so closely related to elected claims 1-11 that they should remain in the same application. There have been no references cited to show any necessity for requiring restriction or species election

and, in fact, it is believed that the Examiner would find references containing both types of online dialogue claims in the same field of technology. It is believed, moreover, that evaluation of all three sets of claims would not provide an undue burden upon the Examiner at this time in comparison with the additional expense and delay to applicants in having to protect the additional subject matter recited by the Species B and C, and claims by filing divisional applications.

MPEP §803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)- §806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if restriction or species election is required.

Even if the Examiner considers claims 12-14 to be separate inventions from claims 1-11, applicants respectfully request the Examiner to consider Species B and C together, as one Species B.

III. Conclusion

Upon review of references involved in this field of technology, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application.

Should any questions remain unresolved, the Examiner is requested to telephone the applicants' attorney.

Respectfully submitted,

STAAS & HALSEY LLP

By: 

David M. Pitcher

Registration No. 25,908

Date: May 26, 2005

1201 New York Ave, N.W.
Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501